

# United States Court of Appeals For the First Circuit

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No. 18-1077

NATIONAL LABOR RELATIONS BOARD

Petitioner

v.

UNITED STATES POSTAL SERVICE

Respondent

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## JUDGMENT

Entered: April 26, 2018  
Pursuant to 1st Cir. R. 27.0(d)

The National Labor Relations Board (“NLRB”) has filed an application for enforcement against respondent, United States Postal Service, seeking enforcement of its consent order dated January 3, 2018 in Board Case Nos. 01-CA-186158. The NLRB and the clerk's office served copies of the application on respondent's counsel, as is required by Fed. R. App. P. 15(c). Respondent has answered that it consents to the entry of judgment and enforcement of the Board's order.

Accordingly, it is hereby ORDERED AND ADJUDGED that the January 3, 2018 order of the National Labor Relations Board in said proceeding be enforced, and that respondent, United States Postal Service, its officers, agents, successors, and assigns, shall abide by and perform the directions of the Board set forth in said order (See Attached Order and Appendix).

By the Court:

/s/ Margaret Carter, Clerk

cc:

Linda J. Dreeben

Alice L.A. Covington

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**UNITED STATES POSTAL SERVICE**

**and**

**Case 01-CA-186158**

**NATIONAL MAIL HANDLERS UNION,  
BRANCH 83, LOCAL 301, a/w LABORERS'  
INTERNATIONAL UNION OF NORTH AMERICA**

**DECISION AND ORDER**

Statement of the Case

On August 9, 2017, the United States Postal Service (the Respondent), National Mail Handlers Union, Branch 83, Local 301, a/w Laborers' International Union of North America (the Union or Local 301), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to Board approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.<sup>1</sup>

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<sup>1</sup> We note that the remedy to which the parties have agreed differs in some respects from previous broad orders that the Board has issued against the Respondent in cases alleging that the Respondent has violated Sec. 8(a)(5) of the Act by failing and refusing to provide relevant information. See, e.g., *United States Postal Service*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007); *United States Postal Service*, 28-CA-017383 et al., unpublished order issued November 4, 2002, enfd. Case 02-9587 (10th Cir. 2003). These broad orders, as enforced by the United States Courts of Appeals, remain in effect, and the Board's approval of this stipulation does not modify these orders in any respect.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

### **Findings of Fact**

#### **1. The Respondent's business**

The Respondent provides postal services for the United States and operates various facilities throughout the United States in the performance of that function, including a facility located at 10 Celina Avenue, Nashua, New Hampshire (the Nashua, New Hampshire facility). The Board has jurisdiction over the Respondent and these matters by virtue of Section 1209 of the Postal Reorganization Act (39 U.S.C. § 101 et seq.).

#### **2. The labor organization involved**

National Mail Handlers Union, a/w Laborers' International Union of North America and the Union are labor organizations within the meaning of Section 2(5) of the Act.

### **ORDER**

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, Nashua, New Hampshire, its officers, agents, successors, and assigns, shall

#### **1. Cease and desist from**

(a) Failing or refusing to bargain collectively and in good faith with National Mail Handlers Union, Branch 83, Local 301, a/w Laborers' International Union of North America by failing to supply Local 301 with requested information in a timely manner that is necessary for, and relevant to its performance as the employees' bargaining agent, at its Nashua, New Hampshire facility, in the following unit:

All employees designated as Mail Handlers and defined in Articles 1 and 7, entitled "Union Recognition" and "Employee Classifications," respectively, of the National Agreement between the Union and Respondent.

(b) In any like or related manner interfering with, restraining, or coercing employees at the Nashua, New Hampshire facility in the exercise of the rights guaranteed them by Section 7 of the National Labor Relations Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Bargain collectively and in good faith with Local 301, the exclusive collective-bargaining representative of the Local 301 unit at the Nashua, New Hampshire facility.

(b) Supply Local 301 in a timely manner with requested information that is necessary for, and relevant to, Local 301's representation of the employees in the Local 301 unit at the Nashua, New Hampshire facility; and if the requested information does not exist, promptly inform Local 301 of that fact.

(c) Conduct training for its managers at the Nashua, New Hampshire facility on the legal requirements of responding to information requests filed by the Union.

(d) Within 14 days of service by the Region, (1) post at the Nashua, New Hampshire facility and (2) send to all its managers and supervisors at the Nashua, New Hampshire facility, copies of the attached notice marked "Appendix A." Copies of the notice, on forms provided by the Region, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places at its Nashua, New Hampshire facility, including all places where notices to employees are customarily posted. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means.

(e) Within 21 days after service by the Region, file with the Regional Director for Region 1 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., January 3, 2018

_____ Mark Gaston Pearce,	Member
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_____ Lauren McFerran,	Member
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_____ William J. Emanuel,	Member
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(SEAL)

**NATIONAL LABOR RELATIONS BOARD**

**APPENDIX A**

**NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER  
AND A CONSENT JUDGMENT OF ANY APPROPRIATE  
UNITED STATES COURT OF APPEALS**

**FEDERAL LAW GIVES YOU THE RIGHT TO:**

- Form, join, or assist a union
- Bargain collectively through a representative chosen by employees
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities

**WE WILL NOT** fail or refuse to bargain collectively and in good faith with National Mail Handlers Union, Branch 83, Local 301, a/w Laborers' International Union of North America (the Union), by failing to provide the Union in a timely manner with requested information that is necessary for, and relevant to, the Union's representation of the employees, as the employees' bargaining agents, in the following unit (the unit):

All employees designated as Mail Handlers and defined in Articles 1 and 7, entitled "Union Recognition" and "Employee Classifications," respectively, of the National Agreement between the Union and Respondent.

**WE WILL NOT** in any like or related manner interfere with, restrain or coerce employees in the exercise of your rights under Federal Law listed above.

**WE HAVE PROVIDED** the Union with the information it requested about June 20, 2016, concerning the information used in making the determination to abolish the Shape Sort Jobs at the Nashua, New Hampshire, facility.

**WE WILL** provide training to managers at the Nashua, New Hampshire facility on the legal requirements of responding to information requests filed by the Union.

**UNITED STATES POSTAL SERVICE**

The Board's decision can be found at [www.nlrb.gov/case/01-CA-186158](http://www.nlrb.gov/case/01-CA-186158) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
FIRST REGION**

**UNITED STATES POSTAL SERVICE**

**and**

**NATIONAL MAIL HANDLERS UNION,  
BRANCH 83, LOCAL 301, A/W LABORERS'  
INTERNATIONAL UNION OF NORTH AMERICA**

**Case 01-CA-186158**

**FORMAL SETTLEMENT STIPULATION**

**I. INTRODUCTION**

Through this Formal Settlement Stipulation (the Stipulation), the parties to this proceeding – the United States Postal Service (Respondent), National Mail Handlers Union, Branch 83, Local 301, A/W Laborers' International Union of North America (Charging Party), and the General Counsel of the National Labor Relations Board agree that, upon approval of this Stipulation by the National Labor Relations Board (the Board), a Board Order in conformity with its terms will issue and a court judgment enforcing the Order will be entered. The parties also agree to the following:

**II. JURISDICTION**

1. Respondent provides postal services for the United States and operates various facilities throughout the United States in the performance of that function, including a facility located at 10 Celina Avenue, Nashua, New Hampshire (Nashua, NH Facility).
2. The Board has jurisdiction over Respondent and these matters by virtue of Section 1209 of the Postal Reorganization Act.

**III. LABOR ORGANIZATION STATUS**

National Mail Handlers Union A/W Laborers' International Union of North America and the Charging Party are labor organizations within the meaning of Section 2(5) of the Act.



#### IV. PROCEDURE

##### 1. FILING AND RECEIPT OF CHARGES.

- (a) On October 12, 2016, the Charging Party filed the charge in this proceeding, which was served on Respondent on October 17, 2016.
- (b) On December 12, 2016, the Charging Party filed the first amended charge in this proceeding, which was served on Respondent on December 13, 2016.
- (c) On December 19, 2016, the Charging Party filed the second amended charge in this proceeding, which was served on Respondent on December 23, 2016.

##### 2. ISSUANCE OF COMPLAINT.

- (a) On February 28, 2017, the Regional Director of Region One of the Board issued a Complaint and Notice of Hearing in this case alleging that Respondent violated the National Labor Relations Act. Respondent and Local 301 each acknowledge receipt of a copy of the Complaint and Notice of Hearing which was served by certified mail on February 28, 2017.

##### 3. WAIVER.

With respect to the Complaint and Notice of Hearing in this case, all parties waive the following: (a) hearing; (b) administrative law judge decision; (c) filing of exceptions and briefs; (d) oral argument before the Board; (e) the making of findings of fact and conclusions of law by the Board; and (f) all other proceedings to which the parties may be entitled under the Act or the Board's Rules and Regulations.

##### 4. WITHDRAWAL OF ANSWER.

By entering into this Stipulation, the parties agree that no Answer to the Complaint will be filed by Respondent in this matter.

##### 5. THE RECORD

The entire record in this matter consists of the following documents: this stipulation, the charge, the amended charges, and the complaint. Copies of the charge, the amended charges, and the complaint, are attached, collectively, as **Exhibit 1**.

6. ENTIRE AGREEMENT

This Stipulation constitutes the entire agreement between the parties, and there is no agreement of any kind, verbal or otherwise, that alters or adds to it.

7. SCOPE OF THE STIPULATION AND RESERVATION OF EVIDENCE

This Stipulation settles only the allegations of the Complaint in the above-captioned case, and does not constitute a settlement of any other cases or matters. It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters which precede the date of the approval of this stipulation regardless of whether those matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned cases for any relevant purpose in the litigation of this or any other cases, and a judge, the Board and the courts may make findings of fact and conclusions of law with respect to that evidence. The Respondent agrees that this Settlement Stipulation may be used in any proceeding before the Board or an appropriate court to show proclivity to violate the Act for purposes of determining an appropriate remedy. There is no agreement of any kind, verbal or otherwise, that alters or adds to it.

The United States Postal Service does not admit that it has violated the National Labor Relations Act by entering into this agreement or by taking any actions pursuant to its terms.

8. ADDITIONAL CONSIDERATION

The parties agree the Respondent will conduct training for its managers at the Nashua, NH, facility on the legal requirements of responding to information requests filed by the Union.

9. EFFECTIVE DATE

This Stipulation is subject to the approval of the Board, and it does not become effective until the Board has approved it. The General Counsel will file with the Board this Stipulation and the documents constituting the record as described above. Once the Board has approved the Stipulation, Respondent will promptly comply with the provisions of the order as set forth below.

V. ORDER

Based on this Stipulation and the record as described above, and without any further notice of proceedings, the Board may immediately enter an order providing as follows:

Respondent, the United States Postal Service, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

- (a) Failing or refusing to bargain collectively and in good faith with National Mail Handlers Union, Branch 83, Local 301, AWW Laborers' International Union of North America by failing to supplying Local 301 with requested information in a timely manner that is necessary for, and relevant to perform as the employees' bargaining agent at its Nashua, NH, facility, in the following unit:

All employees designated as Mail Handlers and defined in Articles 1 and 7, entitled "Union Recognition" and "Employee Classifications," respectively, of the National Agreement between the Union and Respondent.

- (b) In any like or related manner interfering with, restraining, or coercing employees at the Nashua, NH facility in the exercise of the rights guaranteed them by Section 7 of the National Labor Relations Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

- (a) Bargain collectively and in good faith with Local 301, the exclusive collective-bargaining representative of the Local 301 Unit at the Nashua, NH facility;
- (b) Supply Local 301 in a timely manner with requested information that is necessary for, and relevant to, Local 301's representation of the employees in the Local 301 Unit at the Nashua, NH facility; and if the requested information does not exist, promptly inform Local 301 of that fact;
- (c) Conduct training for its managers at the Nashua, NH, facility on the legal requirements of responding to information requests filed by the Union;
- (d) Within 14 days of service by the Region, (1) post at the Nashua, NH, facility, and (2) send to all its managers and supervisors at the Nashua, NH facility, copies of the attached notice marked "Appendix A." Copies of the notice, on forms provided by the Region, after being signed by Respondent's authorized representative, shall be posted by Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places at its Nashua, NH facility, including all places where notices to employees are customarily posted. Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email,

posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means;

- (e) and Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Respondent has taken to comply.

**VI: ENFORCEMENT OF ORDER.**

The United States Court of Appeals for any appropriate circuit may, on application by the Board, enter its judgment enforcing the Order of the Board in the form set forth above. Respondent waives all defenses to the entry of the judgment, including compliance with the order of the Board, and its right to receive notice of the filing of an application for the entry of such judgment, provided that the judgment is in the words set forth above. However, Respondent shall be required to comply with the affirmative provisions of the Board's Order after entry of the judgment only to the extent that it has not already done so.

**United States Postal Service**

Respondent

By: 

6/8/17

Date

**National Mail Handlers Union, Branch 83, Local 301, A/W Laborers' International Union of North America**

Charging Party - Local 301

By: \_\_\_\_\_

\_\_\_\_\_  
Date

Approval recommended:



8/9/17

Date

Board Agent

Approved:



8/9/17

Date

**John J. Walsh Jr., Regional Director**  
National Labor Relations Board  
Region 1  
10 Causeway Street, 6<sup>th</sup> Floor  
Boston, MA 02222

posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means;

- (e) and Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Respondent has taken to comply.

**VI. ENFORCEMENT OF ORDER.**

The United States Court of Appeals for any appropriate circuit may, on application by the Board, enter its judgment enforcing the Order of the Board in the form set forth above. Respondent waives all defenses to the entry of the judgment, including compliance with the order of the Board, and its right to receive notice of the filing of an application for the entry of such judgment, provided that the judgment is in the words set forth above. However, Respondent shall be required to comply with the affirmative provisions of the Board's Order after entry of the judgment only to the extent that it has not already done so.

**United States Postal Service**

Respondent

By:

Date

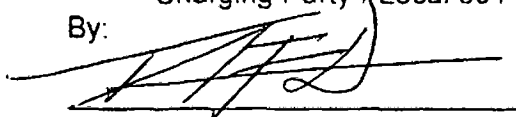
**National Mail Handlers Union, Branch 83, Local 301, A/W Laborers' International Union of North America**

Charging Party, Local 301

By:

Date

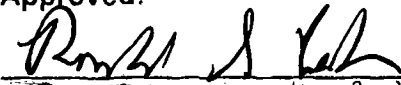
Approval recommended:

  
Board Agent

May 9, 2017  
Date

Date

Approved:

  
Ronald S. Cohen, Acting Regional  
National Labor Relations Board Director  
Region 1  
10 Causeway Street, 6<sup>th</sup> Floor  
Boston, MA 02222

6/30/17  
Date

Date

**Appendix A**

(To be printed and posted on official Board notice form)

**FEDERAL LAW GIVES YOU THE RIGHT TO:**

- Form, join, or assist a union
- Bargain collectively through a representative chosen by employees
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities

**WE WILL NOT** fail or refuse to bargain collectively and in good faith with National Mail Handlers Union, Branch 83, Local 301, A/W Laborers' International Union of North America (the Union), by failing to provide the Union in a timely manner with requested information that is necessary for, and relevant to, the Union's representation of the employees, as the employees' bargaining agents, in the following unit (the Unit):

All employees designated as Mail Handlers and defined in Articles 1 and 7, entitled "Union Recognition" and "Employee Classifications," respectively, of the National Agreement between the Union and Respondent.

**WE WILL NOT** in any like or related manner interfere with, restrain or coerce employees in the exercise of your rights under Federal Law listed above.

**WE HAVE PROVIDED** the Union with the information it requested about June 20, 2016, concerning the information used in making the determination to abolish the Shape Sort Jobs at the Nashua facility.

**WE WILL** provide training to managers at the Nashua, NH, facility on the legal requirements of responding to information requests filed by the Union.

**UNITED STATES POSTAL SERVICE**  
(Employer)

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
(Representative) (Title)

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*The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine*

*whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: [www.nlr.gov](http://www.nlr.gov).*

10 Causeway St Fl 6  
Boston, MA 02222-1001

Telephone: (617)565-6700  
Hours of Operation: 8:30 a.m. to 5 p.m.

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**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.



INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

EXHIBIT 1

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE

Case  
01-CA-186158Date Filed  
October 12, 2016

## INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer United States Postal Service Nashua P&DC		b. Tel. No. (603) 579-2100
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 10 Celina Ave NH Nashua 03063-9997	e. Employer Representative Kristen Kiernan Plant Manager	g. e-Mail Kristen.c.kiernan@usps.gov
		h. Number of workers employed 350
i. Type of Establishment (factory, mine, wholesaler, etc.) Others	j. Identify principal product or service Postal Package Distribution	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 5 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

## 2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

## 3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Thomas Francis Dunn Title: Steward Branch 83  
Branch 83 Local 301

## 4a. Address (Street and number, city, state, and ZIP code)

10 Celina Ave  
NH Nashua 03030-6306

4b. Tel. No.  
(603) 598-36714c. Cell No.  
(774) 571-83454d. Fax No.  
(603) 579-21114e. e-Mail  
t301ldc@gmail.com

## 5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

National Postal Mail Handlers Union AFL-CIO Division of Laborers' International Union of North America

## 6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By Thomas Francis Dunn  
(signature of representative or person making charge)

Thomas Francis Dunn  
Title: Steward Branch 83  
(Print/type name and title or office, if any)

Tel. No.  
(603) 598-3671Office, if any, Cell No.  
(774) 571-8345Fax No.  
(603) 579-2111e-Mail  
t301ldc@gmail.com

10 Celina Ave  
Address Nashua NH 03030-6306

10/12/2016 00:58:49  
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



### Basis of the Charge

8(a)(5)

Within the previous six months, the Employer failed and refused to bargain in good faith with the union as the collective bargaining representative of its employees by failing to furnish information requested by the union.

Date of request	Employer representative	List items requested	Date refused
6/20/16	Elizabeth Larrea, Kristen Kiernan	Management analysis regarding jobs elimination	Ongoing



FORM EXEMPT UNDER 44 U.S.C. 3512

INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**

Case

01-CA-186158

Date Filed

December 12, 2016

**INSTRUCTIONS:****AMENDED**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

a. Name of Employer United States Postal Service		b. Tel. No. (603) 579-2100
		c. Cell No.
		f. Fax No. (603) 579-2111
d. Address (Street, city, state, and ZIP code)  10 Celina Ave NH Nashua 03063-9997	e. Employer Representative  Kristen C Kiernan Plant Manager	g. e-Mail  kristen.c.kiernan@usps.gov
		h. Number of workers employed 350
i. Type of Establishment (factory, mine, wholesaler, etc.) Others	j. Identify principal product or service Postal Package Distribution	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 5 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

**2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)**

--See additional page--

**3. Full name of party filing charge (if labor organization, give full name, including local name and number)**

Thomas Francis Dunn Title: Steward  
Natal Postal Mail Handler Union Branch 83 Local 301

4a. Address (Street and number, city, state, and ZIP code)  10 Celina Ave NH Nashua 03063-9997	4b. Tel. No. (603) 598-3671
	4c. Cell No. (774) 571-8345
	4d. Fax No. (603) 579-2111
	4e. e-Mail t3011dc@gmail.com

**5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**

National Postal Mail Handlers Union AFL-CIO Division of Laborers' International Union of North America

<b>6. DECLARATION</b>		Tel. No. (603) 598-3671
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Office, if any, Cell No. (774) 571-8345
By Thomas F Dunn (signature of representative or person making charge)	Thomas Francis Dunn Title: Steward (Print/type name and title or office, if any)	Fax No. (603) 579-2111
10 Celina Ave Address Nashua NH 03063-9997	12/10/2016 02:23:07 (date)	e-Mail t3011dc@gmail.com

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)****PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

### Basis of the Charge

8(a)(5)

Within the previous six months, the Employer failed and refused to bargain in good faith with the union as the collective bargaining representative of its employees by failing to furnish information requested by the union.

Date of request	Employer representative	List items requested	Date refused
6/20/16	Robert Fisher	Data and Quantitative analysis for 10 job abolishm	12/9/16



12/19/2016 03:01PM 5086512009

L 3D1NPMHU

PAGE 02/02

INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

## DO NOT WRITE IN THIS SPACE

Case

01-CA-186158

Date Filed

12/19/2016

## INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

## Second Amended

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer United States Postal Service		b. Tel. No. 603-579-2100
		c. Cell No.
		f. Fax No. 603-579-2111
d. Address (Street, city, state, and ZIP code) 10 Celina Ave. Nashua, NH, 03063-9997	e. Employer Representative Kristen C. Kiernan, Plant Manager	g. e-Mail kristen.c.kiernan@usps.gov
		h. Number of workers employed 350
i. Type of Establishment (factory, mine, wholesaler, etc.) Government/postal service	j. Identify principal product or service Postal package distribution	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (first subsections) (5) \_\_\_\_\_ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

## 2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

In the past 6 months, the Employer has violated 8(a)(5) by delaying in providing information necessary for the union to represent bargaining unit employees.

## 3. Full name of party filing charge (if labor organization, give full name, including local name and number)

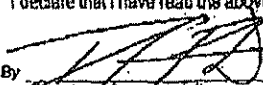
Thomas Francis Dunn, National Postal Mail Handler Union Branch 83 Local 301

4a. Address (Street and number, city, state, and ZIP code) 10 Celina Ave., Nashua, NH 03063-9997	4b. Tel. No. 603-598-3671
	4c. Cell No. 774-571-8345
	4d. Fax No. 603-579-2111
	4e. e-Mail 1301ldc@gmail.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) National Postal Mail Handlers Union AFL-CIO Division of Laborers' International Union of North America

## 6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By   
(Signature of representative or person making charge)

Thomas Francis Dunn, steward

(Printtype name and title or office, if any)

Tel. No. 603-598-3671

Office, if any, Cell No.  
774-571-8345

Fax No. 603-579-2111

e-Mail  
1301ldc@gmail.com

Address 10 Celina Ave, Nashua, NH 03063-9997

(Date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 01

UNITED STATES POSTAL SERVICE

and

Case 01-CA-186158

NATIONAL POSTAL MAIL HANDLERS UNION,  
BRANCH 83, LOCAL 301, A/W LABORERS'  
INTERNATIONAL UNION OF NORTH AMERICA

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by NATIONAL POSTAL MAIL HANDLERS UNION, BRANCH 83, LOCAL 301, A/W LABORERS' INTERNATIONAL UNION OF NORTH AMERICA (the Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., the Postal Reorganization Act, 39 U.S.C. § 101 et seq. (PRA), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board), and alleges that United States Postal Service (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Union on October 12, 2016, and a copy was served on Respondent by U.S. mail on October 17, 2016.

(b) The first amended charge in this proceeding was filed by the Union on December 12, 2016, and a copy was served on Respondent by U.S. mail on December 13, 2016.

(c) The second amended charge in this proceeding was filed by the Union on December 19, 2016, and a copy was served on Respondent by U.S. mail on December 23, 2016.

2. Respondent provides postal services for the United States and operates various facilities throughout the United States in performing that function, including a facility located at 10 Celina Avenue, Nashua, New Hampshire (the Nashua Facility).

3. The Board has jurisdiction over Respondent and this matter by virtue of Section 1209 of the PRA.



4. At all material times, the Union and National Postal Mail Handlers Union a/w Laborers' International Union of North America (NPMU) have each been labor organizations within the meaning of Section 2(5) of the Act.

5. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Kristen Kiernan	---	Plant Manager
Elizabeth Larrea	---	Supervisor Distribution Operations

6. The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees designated as Mail Handlers and defined in Articles 1 and 7, entitled "Union Recognition" and "Employee Classifications," respectively, of the National Agreement between the Union and Respondent.

7 (a) Since at least 2001, and at all material times, Respondent has recognized NPMU as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from May 21, 2016 to September 20, 2019.

(b) At all times since at least 2001, based on Section 9(a) of the Act, NPMU has been the exclusive collective-bargaining representative of the Unit.

(c) At all material times, the Union has been a member of NPMU and has been designated to act as the NPMU's designated agent in certain aspects of collective bargaining for the Unit at the Nashua facility.

8. Since about June 20, 2016, the Union has requested, in writing, that Respondent furnish the Union with the following information:

All information used in making the determination to abolish the Shape Sort Jobs at the Nashua facility.

9. The information requested by the Union, as described above in paragraph 8, is necessary for, and relevant to, NPMU's performance of its duties as the exclusive collective-bargaining representative of the Unit, and the Union's performance of its

duties as the designated collective-bargaining agent of NPMU, as described above in subparagraph 7(c).

10. From about June 20, 2016 to about December 8, 2016, Respondent unreasonably delayed in furnishing the Union with the information requested by it as described above in paragraph 8.

11. By the conduct described above in paragraph 10, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act and within the meaning of the PRA.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before March 14, 2017, or postmarked on or before March 13, 2017.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlrb.gov](http://www.nlrb.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3)

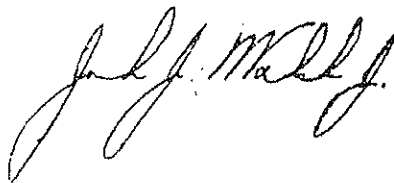


business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on **May 31, 2017, at 10:00 a.m., at the Thomas P. O'Neill Jr. Federal Building, 10 Causeway Street, Sixth Floor, Boston, Massachusetts, 02222**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: February 28, 2017



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JOHN J. WALSH, JR., REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 01

Attachments